

REMARKS

Applicant notes with appreciation the withdrawal of all rejections made in the final Office Action mailed December 5, 2005. With regard to the Office Action of June 22, 2006 rejecting all claims as anticipated by U.S. Patent No. 4,889,764 to Chenoweth et al., Applicant respectfully traverses.

Claim 1 relates to a conformable surfacing veil, and specifically requires a plurality of structural fibers and a plurality of bicomponent fibers coupled to the plurality of structural fibers. Each of the plurality of bicomponent fibers includes a core substantially surrounded by an outer polymer annulus. The melting point of the outer polymer annulus is significantly lower than the core and the plurality of structural fibers. The claim further requires that a portion of the plurality of structural fibers comprises one or more irregularly shaped fibers, and that the one or more irregularly shaped fibers have a melting point significantly higher than the outer polymer annulus.

Applicant concurs that Chenoweth et al. refers to a nonwoven matrix of mineral fibers 12 and synthetic fibers, including homogeneous fibers 14 and bicomponent fibers 16. Applicant further acknowledges the teaching in this reference that the synthetic fibers may be crimped or hollow. However, as the Office implicitly acknowledges, Chenoweth et al. is completely silent as to the melting point of the synthetic fibers 14 relative to that of the sheath 20 of the bicomponent fibers 16. Thus, it cannot be the case that this reference expressly anticipates claim 1.

Nevertheless, the contention is made that Chenoweth et al. discloses the exact same invention of claim 1 because it "teaches that during the curing of the product the sheath of bicomponent fiber melts and forms

bonds between fibers 12 and 14." According to the Office, this "directly implies that the melting point of the second synthetic fibers is *significantly higher* than that of the sheath of the bicomponent fibers" (emphasis added).

In order to establish anticipation "by inherency," as attempted, the missing feature must necessarily be present in the reference. *Advanced Display Sys., Inc. v. Kent State Univ.*, 212 F.3d 1272, 1282, 54 USPQ2d 1673 (Fed. Cir. 2000) ("a prior art reference may anticipate without disclosing a feature of the claimed invention if that missing feature is *necessarily present . . .*") (emphasis added). Consequently, the mere probability or possibility that the invention of the claim might result under certain circumstances is insufficient. *Continental Can Company USA v. Monsanto Company*, 948 F.2d 1264, 1269, 20 USPQ2d 1746 (Fed. Cir. 1991) ("Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient."). Moreover, as in all cases, the reference must be considered as a whole. See *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 727 F.2d at 1550, 220 USPQ at 311 (Fed. Cir. 1983) ("The well established rule of law is that each prior art reference must be evaluated as an entirety . . .").

In the instant situation, no substantial evidence or convincing line of reasoning explains why it is "necessarily" the case that the melting point of the synthetic fibers 14 is "substantially higher" than that of the sheath 20 of the bicomponent synthetic fibers 16 in Chenoweth et al. Simply observing that the sheath 20 might melt and bond with the fibers 12, 14 at some point during processing does not necessarily mean that the melting point of the fibers 14 is "substantially higher." Indeed, the patent appears to teach that

the sheath 20 and fibers 14 may both comprise Dacron polyester (see col. 4, line 56 and col. 5, lines 33-36), which suggests that the melting points would be substantially similar, rather than substantially disparate as required by claim 1. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 1 is respectfully requested.

With regard to claim 8, it reads on a surfacing veil further comprising about 5 to 20 weight percent microspheres. Microspheres are simply not mentioned anywhere in Chenoweth et al. Accordingly, it cannot possibly anticipate this claim. The same is true of claims 44-46, all of which require microspheres but stand rejected as anticipated by Chenoweth et al.

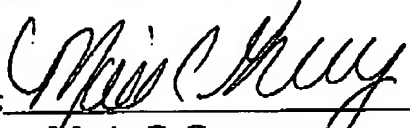
Claims 19 and 23 refer to a surfacing veil wherein the outer polymer annulus comprises a low melt copolymer polypropylene. Polypropylene is not mentioned anywhere in Chenoweth et al., and the Office does not contend otherwise. Accordingly, it cannot possibly anticipate these claims.

Claim 39 reads on a conformable surfacing veil, comprising a plurality of structural fibers and a plurality of bicomponent fibers coupled to the structural fibers. The bicomponent fibers have a core substantially surrounded by an outer polymer annulus with a melting point significantly lower than the core and the plurality of structural fibers. Characterizing the surface veil is that a portion of the structural fibers comprises one or more irregularly shaped fibers having a melting point at least 100 degrees Fahrenheit higher than the outer polymer annulus. Since Chenoweth fails to teach, either expressly or inherently, the claimed temperature condition for irregular fibers in a conformable surfacing veil, claim 38 and dependent claims 39-42 cannot be anticipated by it. The same

is true of claims 20 and 46-48, which also require a temperature condition not expressly or implicitly met by Chenoweth et al.

In summary, none of the pending claims are anticipated by Chenoweth et al., so the rejections should be withdrawn and all claims formally allowed. Upon careful review and reconsideration, it is believed the Office will agree with this proposition. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited to avoid the need for bringing this matter before the Board. Authorization is given to charge any fees required to Deposit Account No. 50-0568 in connection with this Amendment.

Respectfully submitted,

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